



SUPERIOR COURT OF CALIFORNIA

County of Monterey

LOCAL RULES

Effective July 1, 2007 ~~January 1, 2007~~

The following Local Rules of Court contain proposed amendments, effective July 1, 2007.

Juvenile Dept.

Rule 3.22C.3

Civil Dept.

Rule 6.03d.f.1

Rule 6.15d.1

Law & Motion Dept.

Rule 7.07

Family Law Dept.

Rule 10.06F.1.B.i

10.06F.2

Rule 10.09

Misc. Rules

Rule 19.06

3.22 DISCOVERY IN JUVENILE DELINQUENCY PROCEEDINGS

A. PURPOSES OF THIS RULE

This rule shall be interpreted to give effect to all of the following purposes:

1. To promote the ascertainment of truth in juvenile delinquency proceedings by requiring timely discovery prior to the jurisdictional hearing.
2. To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.
3. To save court time in juvenile delinquency proceedings and avoid the necessity for frequent interruptions and postponements.
4. To protect victims and witnesses from danger, harassment, and undue delay of the proceedings.
5. To provide that no discovery shall occur in juvenile delinquency proceedings except as provided by this rule, other express statutory provisions, or as mandated by the Constitution of the United States.

B. INFORMATION TO BE DISCLOSED BY PROSECUTION

The prosecuting attorney shall disclose to the minor or his or her attorney all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

1. The names and addresses of persons the prosecutor intends to call as witnesses at the jurisdictional hearing.

2. Statements of the minor.
3. All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.
4. The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the jurisdictional hearing.
5. Any exculpatory evidence.
6. Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the jurisdictional hearing, including any reports or statements or experts made in conjunction with the case, including the results of physical or mental examinations, scientific test, experiments, or comparisons which the prosecutor intends to offer in evidence at the jurisdictional hearing.
7. Any additional discovery as set forth in California Rules of Court, Rule 1420.

C. DISCLOSURE OF ADDRESS OR TELEPHONE NUMBER OF VICTIM OR WITNESS TO MINOR

1. Except as provided in paragraph 2, no attorney may disclose or permit to be disclosed to a minor, members of the minor's family, or anyone else, the address or telephone number of a victim or witness whose name is disclosed to the attorney pursuant to subdivision (a) of Penal code Section 1054.1 and California Rules of Court, Rule 1420 unless specifically permitted to do so by the court after a hearing and a showing of good cause.
2. Notwithstanding paragraph 1) an attorney may disclose or permit to be disclosed the address or telephone number of a victim or witness to persons employed by the attorney or to persons appointed by the court to assist in the preparation of a minor's case if that disclosure is required for that preparation. Persons provided this information by an attorney shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.
3. Willful violation of this subdivision by **an attorney, persons employed by the attorney, or persons appointed by** the court may be punishable as contempt. ~~or as contempt or as provided by any other lawful order or sanction.~~

D. INFORMATION TO BE DISCLOSED BY MINOR

The minor and his or her attorney shall disclose to the prosecuting attorney:

1. The names and addresses of persons, other than the minor, he or she intends to call as witnesses at the jurisdictional hearing, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, and including the results of physical or mental

examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the jurisdictional hearing.

2. Any real evidence which the minor intends to offer in evidence at the jurisdictional hearing.
 3. Any Additional discovery as set forth in California Rules of Court, Rule 1420.
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6.03 CALENDARS

- a) Civil Jury Trials: Calendar call on Monday at 8:30 a.m. to be assigned by the Civil Supervising Judge.
- b) Court Trials, Long Cause and Short Cause: Tuesday, Wednesday, and Thursday, at 8:30 a.m. as assigned by the Civil Supervising Judge.
- c) Creditor's Examinations, Minor's Compromises, and Default hearings, Tuesday, Wednesday, and Thursday, 8:30 a.m., as assigned by the Civil Supervising Judge.
- d) Adoptions ~~and Dissolutions Defaults~~ are heard ~~Monday through on~~ Wednesday at ~~9:00 a.m. 8:30 a.m. in the Family Law Court~~.
- e) Civil Harassment matters and Civil Domestic Violence matters are heard Thursdays at 8:30 a.m. in the Family Law Court.
- f) Case Management.
 1. Order to Show Cause: Tuesday, Wednesday and Thursday, 8:30 a.m. or as otherwise ordered by the Court.
 2. Case Management Conferences: Thursday at 9:00 a.m., ~~Friday at 10:00 a.m.~~, or as specially set or assigned by the Court.
- g) Law & Motion.
 1. Time: Friday, 9:00 a.m.
 2. Department: Except when sufficient judges are not available, Law & motion shall be divided and heard in two departments. The Court shall assign the appropriate department.
- h) Probate: Friday, 10:30 a.m.
- i) Unlawful Detainer Trials: Tuesday, Wednesday, and Thursday at 8:30 a.m. as assigned by the Court.
- j) Settlement Conferences: Friday 1:30 p.m.; and as specially set.

- k) Small claims appeals: Tuesday, Wednesday and Thursday at 8:30 a.m. as assigned by the Court.
- l) Small Claims, ~~Parking Appeals~~, and Vehicle Forfeiture Law & Motion: Monday at 8:30 a.m.
- M) Small Claims Trials: Monday at 8:30 a.m. and 1:30 p.m.

(Adopted effective October 1, 1998; Amended effective July 1, 2001; Amended effective January 1, 2003; Amended effective July 1, 2003; Amended effective July 1, 2004; Amended effective July 1, 2005; **Amended effective July 1, 2007.**)

6.15 MISCELLANEOUS RULES

- a) Notice of Settlement. The Court shall be notified of the settlement of any case immediately. If the notice is oral it shall be followed by written notification received by the Court within (2) days. If a case is reported as settled all dismissals shall be filed with the Court within 45 calendar days. This time may be extended by written ex parte request, for good cause, on court order. If nothing is received by the Court during this period of time and no extensions have been granted, the court will presume the matter is completed and dismiss the case after 45 days pursuant to California Rule of Court 225.
- b) Orders. If a party is required to prepare any order it shall be prepared, forwarded to all other parties for written approval as to form, and returned to the Court within 14 days. Signature blocks indicating approval of all attorneys and/or parties shall be incorporated into the order. Any party not responding to the request for approval within 5 days shall be deemed to have waived any objection. Proof of mailing shall be provided with the order. If there is an objection to the order the attorneys and/or parties shall meet and confer within five days. If there are any remaining objections each party shall prepare a proposed order and brief letter explaining their objection. It is the responsibility of the attorney/party ordered to prepare the order to forward all objections to the Court in a single package.
- c) Delay in Prosecution. It is the intent of the Court to monitor the process of cases to ensure final resolution within the time guidelines set by the Judicial Council. Where appropriate, the Court shall, on its own motion, calendar all cases that have not been brought to final judgment within two years from the date of filing of the complaint, for dismissal under applicable California law and Rules of Court. Failure to file timely objections shall be deemed a consent to dismissal.
- d) **All limited action collection cases shall be assigned to the Expedited Case Management Plan, unless otherwise ordered by the Court. Except for good cause approved by the Court, they shall be finally concluded**

within twelve months of filing of the complaint unless stayed by operation of law or a Conditional Settlement has been reached. The parties shall diligently pursue final disposition within twelve (12) months. The initial Case Management Conference shall be set no later than nine (9) months from the filing of the complaint. Case Management Statements shall be filed as required by these rules.

~~d) Collection Cases. All collection cases shall be designated Category One, unless otherwise ordered by the Court. Except for good cause approved by the Court, they shall be finally concluded within one year of filing of the complaint unless stayed by operation of law or a Conditional Settlement has been reached. The parties shall diligently pursue personal service within nine (9) months. Case Management Statements shall be filed as required by these rules.~~

1. All limited action collection cases shall be assigned to the Expedited Case Management Plan, unless otherwise ordered by the Court. Except for good cause approved by the Court, they shall be finally concluded within nine months of filing of the complaint unless stayed by operation of law or a Conditional Settlement has been reached. The parties shall diligently pursue final disposition within nine (9) months. Case Management Statements shall be filed as required by these rules.
 2. The Court may, on its own motion, continue or vacate the Initial Case Management Conference and reset the matter for a Disposition Hearing anytime on or after nine months from the filing of the complaint. If the matter has not been finally concluded or stayed by operation of law by that date, the Court may dismiss the matter with or without prejudice for good cause and in the interests of justice.
- e) Stayed Cases. The attorneys shall promptly notify the Court if a case is stayed by operation of law (bankruptcy, removal to Federal Court, coordination proceedings, conditional settlement agreement, etc.) If a stay is lifted the attorneys shall notify the Court within ten (10) days.
- f) Alternative Dispute Resolution. It is the policy of this Court to promote and encourage alternative dispute resolution. In any case where Judicial Arbitration is ordered the parties may stipulate to substitute private arbitration or mediation. In any case where the matter is referred to any form of alternative dispute resolution, including Judicial Arbitration, it shall be finally concluded in no more than 90 days if no other date is set by the Court.
- g) Interpreters. It is the responsibility of the attorney/party to obtain an interpreter if needed for any civil matter. A family member, friend, or the attorney may only interpret (1) in an uncontested matter, (2) with the express consent of the party, (3) with the express statement of the attorney that there is no conflict of interest, and, (4) on being properly sworn. (Adopted effective October 1, 1998; Amended effective January 1, 2003, Amended effective January 1, 2007; **Amended effective July 1, 2007.**)
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7.07 TELEPHONE APPEARANCE IN CIVIL LAW AND MOTION HEARINGS

In accordance with the provision of Rule 298 of the California Rules of Court, counsel and unrepresented litigants shall have the option of appearing by telephone in any conference or non-evidentiary law and motion hearing, excluding settlement conferences. Teleconferencing is provided through ~~Conference-Call~~ **Court Call Service**, a private vendor. Arrangements to schedule teleconferencing for a conference or hearing shall be made directly with ~~Conference-Call~~ **Court Call Service** by calling ~~1-800-723-1220~~ **1-888-882-6878**. A fee will be charged for this service and shall be payable directly to ~~Conference-Call~~ **Court Call Service**. (Adopted effective July 1, 1999; Amended effective July 1, 1999; Amended effective July 1, 2004; **Amended effective July 1, 2007**)

10.06 MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES

A. PREAMBLE

Child custody and visitation mediation is a program administered by the office of Family Court Services.

Mediation is provided in a number of different proceedings involving the custody and visitation of a minor. These proceedings include: 1) Dissolution and Legal Separation (Family Code section 3170), 2) Stepparent Visitation (Family Code sections 3171, 3172, 3185); 3) Grandparent Visitation (Family Code sections 3171, 3176, 3185); 4) Domestic Violence (Family Code section 3170, 3181, 3182); 5) Paternity (Family Code section 3172, 7600 et seq.); 6) Child Support Enforcement (Family Code, section 17404) Termination of Parental Rights (Family Code section 7660.) and 8) Guardianships (Probate Code sections 1500 et seq.).

B. MANDATORY MEDIATION

Family Code sections 3170 and 3175 require that when it appears on the face of a petition or application or other pleading for an order or modification of an order that custody, temporary custody, or visitation rights are contested, the matter must be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. The purpose of mediation is the reduction of acrimony which may exist between the parties, the development of an agreement assuring the child's close and continuing contact with both parents, and to effect a settlement of the issue of visitation rights of all parties that is in the best interests of the minor (Family Code section 3161).

C. COST OF MEDIATION

There is no direct cost to either party for the use of the Family Court Services' Mediation Program. The program is paid for by a portion of the filing fee for dissolution

actions and a portion of the cost of a marriage license. The parties are free to retain a mediator of their own choice who is not employed by the Court and encouraged to attempt to resolve the dispute without court intervention. Mediation services provided by the Court are limited and should be used only when there is an actual dispute that cannot be resolved by the parties themselves or with the assistance of their lawyers. The Court will not pay for the services of an independent mediator or family counselor unless such services are provided through the Court.

D. TYPES OF MEDIATION

There are three types of mediation services available: First Tier Mediation (confidential); Second Tier Mediation (non-confidential); and Separate Mediation (non-confidential). The following sections set forth general rules regarding mediation services; special rules that apply to Second Tier Mediation and Separate Mediation are set forth in later sections.

If there has been a history of domestic violence between the parties or a Domestic Violence Restraining Order has been issued, mediation shall be scheduled in separate sessions at separate times if ordered by the court or requested by the protected party or party who has made an allegation of domestic violence under penalty of perjury. See the rules on Separate Mediation.

E. GENERAL RULES

1. Referral of Cases to Mediation. Mediation services are only available where there is a case filed with the Court. If there is no pending action (dissolution, paternity, visitation, guardianship, etc.), no mediation will be scheduled.

The parties must complete the Co-Parenting Program prior to attending mediation. Specific rules and exceptions are set forth in the section on Co-Parenting herein. When requesting an appointment, the parties will be asked what efforts have been made to resolve the dispute prior to requesting mediation. In any case in which custody, temporary custody, or visitation is contested, the matter must be referred for mediation prior to any scheduled hearing. There will be no final judicial determination of any contested custody or visitation issue until mediation has been completed.

2. How to Refer a Case to Mediation. Mediation referrals are made by contacting the Family Court Services office either by phone or in person, at the following location:

Family Court Services Office
1200 Aguajito Rd.
Monterey, CA 93940
Monterey: (831)647-5800 Extension 3009
Salinas: (831) 775-5400 Extension 3009

In order to accept a referral and schedule mediation the following information must be provided:

1. the case number and case name and the case number of any related cases (such as child support or domestic violence actions);
2. if there is a Domestic Violence Restraining Order in place or whether there is an allegation of domestic violence in the file under penalty of perjury;
3. the parties' names, their current addresses and daytime telephone numbers; and
4. the name of a party's attorney if there is one.
5. Any information which would affect scheduling such as parties coming from out of town, or the need for an interpreter.
6. proof that the parties have completed the Co-Parenting Workshop or that prior completion was waived by court order.

Rescheduling of a mediation appointment is discouraged. However, if there is a compelling reason, an appointment may be rescheduled if the parties contact Family Court Services at least five (5) calendar days before the appointment date and rescheduling will not result in a hearing date being continued.

If the parties wish to cancel a mediation appointment because the dispute has been settled or if both sides agree to cancel the mediation for good reason, at least five (5) calendar days' notice must be given to the Mediation Service to avoid the possibility of sanctions.

The mediators shall review the Court's file in the case prior to mediation to familiarize themselves with existing or temporary orders regarding custody and visitation. If there are other written agreements relating to custody or visitation which are not in the Court file and which would assist the mediator, for example orders from another jurisdiction, copies should be delivered to the mediation service prior to the first session.

3. Mediation Where OSC or Motion Pending. If mediation and Co-Parenting Program have not been completed nor an agreement reached prior to the date set for hearing or trial of the issue, the Court will refer the case for Co-Parenting Program and/or mediation at the hearing. The Court may make temporary custody or visitation orders, or continue existing orders pending completion of mediation. All temporary orders pending mediation are without prejudice and should not be cited as a basis for permanent orders. Before arranging mediation the parties or their attorneys should have discussed custody and visitation issues, or made reasonable attempts to do so, and concluded that the issues cannot be resolved by the parties themselves.

If mediation has not been ordered by the court, a Request for Mediation form describing the nature of the dispute must be submitted by both parties at the time mediation is requested. Counsel will be allowed to phone in the request

for mediation and provide the information required on the form on behalf of their client. Self represented litigants may provide their required information by telephone.

The Court may ask the mediator to see the parties at the time of hearing (or within 48 hours if orders are requested ex parte) to negotiate temporary orders until further mediation can be scheduled to resolve any dispute related to permanent custody and visitation orders. Attorneys and parties are urged to arrange for mediation sufficiently in advance of the hearing to allow it to be completed prior to the date of the hearing.

Family Court Services will attempt to accommodate parties who are coming from out of the county or state if given sufficient advance notice. If a case requires mediation and one of the parties resides out of the county or state, the mediation may be scheduled preceding or following the hearing so that disputed issues may be resolved without requiring the out-of-county or out-of-state parent to make additional trips to Monterey County. Parties are not to expect a mediation appointment on the day of the hearing without prior contact with the Family Court Services. Mediation by phone may be requested in exceptional circumstances and will be scheduled only upon Court order. The party who requested the telephonic mediation shall bear the telephone charges.

4. Ex-Parte Requests for Mediation. Any ex parte requests for mediation orders shall be accompanied by a declaration establishing good cause for the ex parte request. The declaration shall detail the existence of a custody or visitation dispute and what efforts, if any, have been made to reach an agreement and state specific reasons why an order for mediation is sought prior to service and without notice. The request must state whether the applicant has completed the Co-Parenting Program.

Specific appointment dates will not be given ex parte, as there is no certainty that a party will be timely served. If an ex parte application for mediation orders is approved, the applicant without counsel must deliver a completed Request for Mediation form to the Family Court Services office or provide the required information by telephone. An attorney should contact Family Court Services as soon as service has been made to start the scheduling process.

5. Mediation with No Court Hearing. It is not necessary that an Order to Show Cause or a Notice of Motion for custody or visitation be set for hearing in order to refer a case to mediation. If no OSC or motion is scheduled, there must be an actual dispute, the parties must have attempted to resolve the dispute themselves, and there must be an express agreement of both parties to enter into mediation. Even though no hearing is pending, there must be a petition or complaint filed with the court. (This section does not apply to Second Tier Mediation which is only available by court order.) Parents may voluntarily attend mediation once every twelve (12) months without a court order or hearing set.

6. Resolution of Other Issues Pending Mediation of Child Custody and Visitation Disputes. The Court may make orders on issues such as spousal support and child support pending the completion of mediation. Orders for temporary child support will generally be based upon the custody and visitation arrangement at the time of the hearing. Such orders will be made without prejudice to the rights of either party with respect to the issues of custody and visitation.
7. Child custody and visitation mediation services will be provided in child support actions when both parents are parties to the action.
8. Participating in the Mediation Proceeding. In First Tier Mediation, the mediator will see both parties together. Thereafter, depending on the nature of the issues to be resolved, the mediator may see each party separately during mediation. If there is a history of domestic violence or a protective order in place, the Local Rules governing Separate Mediation will apply. Stepparents may be included in mediation sessions only with the prior consent of the mediator and both natural parents.

The mediator has a duty to assess the needs and interest of the children involved in the custody and visitation dispute. The mediator may interview the children if, in the mediator's opinion, such an interview is necessary or appropriate. The parties shall not bring the child to any meetings with the mediator unless specific arrangements have been made with the mediator in advance of the meeting.

Under of Family Code section 3182, the mediator has the authority to exclude attorneys from participation in the mediation proceeding if, in the judgment of the mediator, the exclusion of the attorneys is necessary to facilitate the completion of mediation. Attorneys will generally be excluded from mediation proceedings.

Under Family Code section 6303 a support person may attend mediation with the protected party under a restraining order. A mediator may exclude a support person from a mediation session if the support person participates in the session, acts as an advocate, or the presence of the support person disrupts the process of mediation. The presence of a support person does not waive confidentiality of the mediation and the support person is bound by the confidentiality of mediation.

Attorneys are not to wait at the Family Court Services during a session. Experience has shown this practice to be counter-productive to the purpose of mediation.

Some attorneys have advised their clients not to sign any agreement the attorney has not reviewed. Because a ten day rescission period is available to address any objections to an agreement reached in mediation, attorneys are discouraged from advising a client not to sign any agreement.

9. Non-English Speaking Participants. In the event one or both of the parties is not fluent in English, Family Court Services will attempt to provide a mediator

or interpreter to conduct the mediation in the spoken language of both participants. If an interpreter is required, the cost of the interpreter shall be paid by the parties in advance. Family Court Services will schedule the interpreter. Sufficient advance notice (7 days) must be provided to allow time to locate an interpreter.

10. Request for Change of Mediator. In the event there is a request by a participant in mediation for a change of mediator or a concern regarding a problem relating to the mediation process, the participant shall complete a form provided by Family Court Services
11. Status Report. If the dispute between the parties is not resolved in mediation, the mediator will report to the Court that no agreement has been reached. The mediator may recommend to the Court that an investigation be ordered or psychological evaluation be obtained, note that a report to County Child Protective Services has been made, or recommend appointment of counsel for the child(ren). Further, the mediator may recommend that restraining orders be issued to protect the well being of the child(ren). The mediator will not advise the Court of the reasons why mediation was not successful unless the reason is that one or both of the parties a) would not cooperate in the process, b) did not come to the appointments, or c) there is an allegation of abuse which was reported.
12. Recommendation for Appointment of Counsel for Child. The mediator or custody investigator may recommend that counsel be appointed to represent any minor child(ren) when it appears that the best interests of the minor child requires independent counsel (Family Code section 3184). The reason for the recommendation of the mediator or the child custody investigator shall be stated in general terms and shall not be binding on the court. It shall only be considered insofar as it alerts the court to the need to consider the appointment of counsel. Neither the mediator nor the investigator shall be called as a witness and/or regarding the specific factual basis for the recommendation.
13. Extended or Ongoing Family Counseling. In certain cases, the mediator may recommend to the parties extended or ongoing family counseling. If the parties agree, provision for such counseling may be incorporated into the mediation agreement when the child is in need of such counseling, or the parties need extended or ongoing counseling in order to resolve the conflicts in their relationship which give rise to their disputes concerning child custody and visitation. Such extended counseling services will not be provided by Family Court Services or at court expense. The mediator may recommend one or more persons or agencies which the parties might contact to obtain counseling.
14. Child Abuse. Penal Code section 11166 requires that the mediator immediately report all instances of suspected child abuse and/or neglect to a child protective agency. The parties will be advised at the beginning of the first mediation session of the reporting responsibility.

F. SPECIAL RULES

1. FIRST TIER MEDIATION (CONFIDENTIAL)

A. MEDIATION PROCEDURE

The mediator's role is as a neutral party whose primary concern is the satisfactory resolution of the dispute between the parties concerning custody and visitation in a manner which is in the best interests of the child(ren). The mediator is a problem solver and an advocate for the best interests of the child, not an adversary or trier of fact. In First Tier Mediation, all communications between the parties and the mediator are confidential except 1) information (which legally must be reported) that someone in the dispute is a danger to self or others or 2) information incorporated into a written agreement between the parties. Confidentiality of First Tier mediation proceedings facilitates communications between the parties and the mediator without fear that such communications will be used in subsequent judicial proceedings. Mediator's files are considered confidential and not available to the parties or their attorneys by subpoena or otherwise. The mediator may not be called as a witness in a subsequent hearing, nor may the mediation service records be subpoenaed.

B. THE MEDIATION AGREEMENT

i. GENERAL

If the parties reach an agreement as a result of mediation, the agreement will be handwritten by the mediator immediately. The parties will be asked to review and sign the handwritten version of the agreement. Each party will receive a copy of the signed handwritten agreement before leaving. ~~Copies of written agreements reached in First Tier Mediation will be provided to counsel of record.~~ **Copies of The Parenting Agreement, Stipulation and Order will be provided to the parties and counsel of record upon filing. [This change is proposed for consistency with Family Code 3186.]** Amended effective January 1, 2006; **Amended effective July 1, 2007.**

If an agreement is reached, a ten (10) day rescission period is given to permit parties an opportunity to consult with their attorneys regarding the agreement. If, during the 10 calendar days following the mediation agreement date, either party wishes to rescind the agreement, they must contact Family Court Services. Written notice of rescission must be given to Family Court Services as well as to opposing counsel.

If either party objects to the agreement, the mediation is reported to the Court as one in which no agreement has been reached and the parties are free to pursue whatever legal remedies are available to them. Any agreement which has been rescinded may not be presented to the Court at any subsequent hearing.

If a notice of rescission is not received within 10 calendar days of the date of the agreement, the agreement will be submitted to a judge for signature, at which point the agreement becomes a court order. Signed and file stamped copies of the agreement will then be mailed to the parties.

The agreement can be filed and made a court order before the expiration of the ten day period either a) by written stipulation of all parties, or b) by oral stipulation in open court on the record.

The agreement will not create, modify or extinguish any obligation of support. If either party believes that the custody/visitation agreement necessitates a modification of support, a separate order must be sought.

This agreement will not modify, rescind, or preclude existing or future protective orders. Any such orders must be separately modified as necessary before this agreement may be implemented.

ii. TEMPORARY AGREEMENTS

If an agreement is reached which covers only a limited period of time, applies pending further court action, or is to be used on a trial basis only, the following procedures will be implemented. There will be no ten (10) day rescission period (see iv. below), and the agreement will not automatically become a court order.

1. The agreement will be kept on file in the Family Court Services office and will not be submitted to the Court, even after 10 days, by the Family Court Service.
2. A status form will be filed with the Court.
3. Family Court Services will schedule a return appointment for the parties and will confirm the appointment with the parties when the temporary agreement is made.
4. If the agreement breaks down prior to the date the parties are scheduled to return, an appointment will be scheduled for the parties as soon as possible at their request if they are unable to resolve the dispute themselves or through the aid of their attorney(s).
5. If one of the parties fails to attend further mediation regarding a temporary agreement or declines to participate in further mediation, the temporary agreement will expire on the date set forth in the agreement.

iii. PARTIAL AGREEMENTS

In the event some of the disputed issues are resolved and some are left unresolved, the mediator will prepare an agreement covering the resolved issues. A status form apprising the Court of the unresolved custody or

visitation issues will also be filed. The 10 day rescission process described above applies to partial agreements.

2. SECOND TIER MEDIATION (NON-CONFIDENTIAL)

Second Tier Mediation may be scheduled only upon court order. Upon a finding of good cause, the court may direct the mediator, to render a custody or visitation recommendation consistent with Family Code section 3183. Copies of the Second Tier mediator's report to the court will be provided to **the parties and** counsel of record. (Amended January 1, 2006; **Amended effective July 1, 2007**)

3. SEPARATE MEDIATION (NON-CONFIDENTIAL)

In any case in which a Domestic Violence Order (CLETS) has been issued or a Criminal Protective Order is in place against one of the parties, the mediation shall be set and conducted as Second Tier Mediation. It shall be set and conducted as Separate mediation if so ordered by the Court or requested by the protected party.

In cases where there has been a history of domestic violence but no order has been issued, the mediation shall be conducted as Separate Mediation when requested by the party who has alleged under penalty of perjury that the violence has occurred.

The time and date of Separate Mediation sessions are confidential and are not disclosed to the other party. The parties are cautioned not to inform the other party of the time and date set.

The mediator shall render a written recommendation to the court regarding visitation and custody issues taking into consideration the parameters set by any restraining orders. The protected party may be accompanied by a support person during the mediation session. Until the Court adopts the recommendation, the parties must follow any interim order regarding custody and visitation. (Adopted effective October 1, 1998; Amended effective July 1, 1999; Amended effective July 1, 2000; Amended effective July 1, 2003; Amended effective January 1, 2005; Amended effective July 1, 2005; **Amended effective July 1, 2007**)

10.09 MISCELLANEOUS RULES

A. DEFAULT OR UNCONTESTED HEARING

No uncontested or default matter shall be heard unless application is filed with the Clerk at least five (5) court days in advance thereof, unless an emergency exists which requires an earlier hearing. No matter shall be set unless all pleadings, stipulations, and other necessary papers are on file with the Clerk and default, if required, has been entered.

B. DUPLICATE FILING

Copies of previously filed pleadings, declarations or other documents should not be attached as exhibits to subsequent documents. Reference to the previous documents is sufficient. (Rule 10.08, B., Adopted effective July 1, 2000)

C. CONFIDENTIAL RECORDS

It is the responsibility of the filing party to identify any documents that may be considered confidential and to seal such documents when filed with the Court. Such documents may include tax returns, medical reports, psychological records, custody investigation reports, and police reports. HIV laboratory test results shall not be made public. This rule pertains to any documents that are attached to a pleading and filed with the Court. If such attachments are not submitted as sealed, the Clerk of the Court will not act to seal the documents. Unless sealed by the filing party, the documents will be considered as open and public, upon filing with the Clerk. Refer to Local Rule 10.08.G. Sealed Documents listed below, for instruction in filing confidential documents.

D. PLEADING FOR ADVERSE PARTY

The practice in domestic relations proceedings whereby the petitioner's attorney prepares pleading for the respondent is not favored. Unless good cause is shown (e.g., military service, party out of state, etc.), no uncontested civil matter shall be heard on answer or response, unless such instruments are prepared by the answering party or his counsel.

E. SANCTIONS

Failure to comply with the above rules and policies may result in an award of attorney fees, costs, or other sanctions pursuant to California Rules of Court, Rule 2.30 and Code of Civil Procedure section 575.2. (Amended effective January 1, 2007).

F. DISMISSAL OF FAMILY LAW CASE ON COURT'S OWN MOTION

Absent good cause, a family law case may be dismissed, without prejudice, on the Court's own noticed motion when:

1. the case is dropped from the trial calendar because the parties have reconciled; and
2. no further action is taken in the case within 180 calendar days from the date the case is dropped from the trial calendar.

G. SEALED DOCUMENTS

Any confidential documents shall be submitted for filing in a sealed, clasp envelope not smaller than 7 inches by 10 inches nor larger than 8 ½ by 11 inches in size. The envelope shall be attached to the accompanying document clasp-side down to allow access for the court through the clasped end. A label shall be affixed to the envelope including the case name, number and identity of the documents enclosed.

(Adopted effective October 1, 1998; Amended effective July 1, 1999; Amended effective July 1, 2000; Amended effective July 1, 2001; Amended effective January 1, 2002; Amended effective January 1, 2007).

H. COURT COMMUNICATION PROTOCOL FOR DOMESTIC VIOLENCE AND CHILD CUSTODY ORDERS

Court records shall be accessed as set forth in the following paragraph in order to determine if a Criminal Protective Order (CPO) exists involving the parties and affecting the custody or visitation of the children. Any Custody or Visitation Order (CVO) subsequently issued shall take into consideration the terms of any existing CPO and shall be drafted in a manner not inconsistent with the CPO. If the court issuing the CVO recommends that a modification of the CPO be considered, the parties shall be referred to the modification calendar of the Domestic Violence court.

The court records shall be accessed as follows:

A. Family Law, Probate and Juvenile: When there are allegations of domestic violence in the documents submitted to the court.

B. Civil Restraining Orders - Domestic Violence, Harassment, Elder Abuse and Workplace Violence: Prior to the issuance of a temporary restraining order and prior to the hearing on such order.

C. Mediation: Prior to every Separate Mediation and any time there are allegations of domestic violence in the file.

The Domestic Violence court shall make reasonable efforts to determine if a custody or visitation order exists involving the defendant. The court issuing the CPO may permit visitation pursuant to any Family Law, Probate or Juvenile Court order so long as such visitation is determined by the court to be consistent with the safety of the victim[s].

When a CPO exists, any CVO that permits contact between the defendant and the children shall provide for the safe exchange of the children. The CVO shall also specify the time, day, place and manner of transfer of the child pursuant to FC3100 so as to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. The safety of the parties and their children shall be the court's paramount concern.

This rule does not prevent a CVO from containing more restrictive terms than the CPO.

I. COMPLAINTS CONCERNING FAMILY COURT SERVICES MEDIATORS AND INVESTIGATORS.

Complaints not in connection with court-ordered evaluations (subsection H), must be made in writing and addressed to the Court Executive Officer, Superior Court of California, County of Monterey, 240 Church Street, Salinas, CA 93901. The Court Executive Officer or designee, will conduct an investigation and will respond to the written complaint within (30) days. The complainant may appeal the response to the Presiding Judge. The Presiding Judge will rule on the

appeal within thirty (30) days. (Adopted effective January 1, 2004, pursuant to CRC 5.500(c); Re-numbered from Rule 10.08 to Rule 10.09 effective January 1, 2005; ***Amended effective July 1, 2007.***)

19.06 USE OF CORRECTION FLUID OR TAPE ON DOCUMENTS AND PAPERS
Repealed effective July 1, 2007.

~~**19.06 USE OF CORRECTION FLUID OR TAPE ON DOCUMENTS AND PAPERS**~~

~~Correction fluid or tape shall not be used to correct errors in dates, monetary amounts, names of parties, or legal descriptions on any documents or papers, of any nature, presented for filing as part of the official court file. Documents or papers presented for filing with such errors corrected with correction fluid or tape shall be refused for filing by the Clerk of the Court, unless otherwise ordered by the Court. (Adopted effective October 1, 1998; Amended effective January 1, 2002)~~